

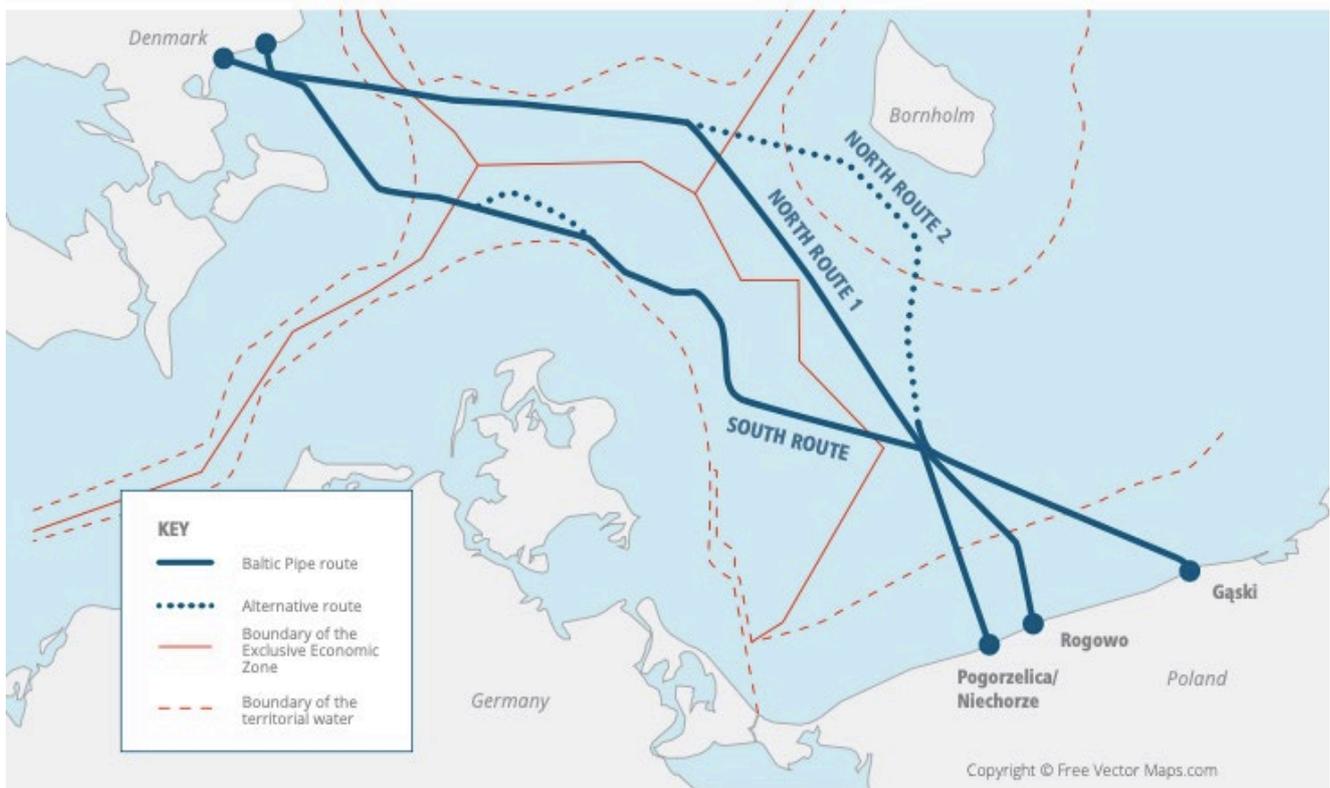
CASE STUDIES ON THE APPLICATION OF THE ESPOO CONVENTION IN MARINE REGIONS

BALTIC PIPE

BACKGROUND

The Baltic Pipe project is a so-called EU project of common interest, which means it is a project essential for meeting the EU's energy policy objectives of affordable, secure and sustainable energy. The project consists of five key components:

1. A new gas pipeline in the North Sea (length 120 km) from the Norwegian offshore gas fields to the Danish coast.
2. In Denmark, a new gas pipeline is planned, which extends over approx. 220 km across Jutland, Funen and Southeast Zealand.
3. A new compressor station (CS Zealand) at the Danish shore in Zealand.
4. An offshore pipeline linking Denmark and Poland for gas transmission,
5. The necessary expansion of the Polish gas system to receive gas from Denmark.



Schematic overview map. Source: GAZ-SYSTEM

The locational design pipeline has considered several routes across the Baltic Sea between Denmark and Poland including the possible crossings of the German or Swedish exclusive economic zones and potential two landfall options in Denmark and three options for landfall in Poland (see Figure above)

This case study presents the EIA and transboundary consultations for its component 4 – an offshore pipeline linking Denmark and Poland (the Baltic Pipe) with a total length of 250 – 280 km that can transfer up to 10 billion m³ per year over the next 50 years.

PROCEDURE FOLLOWED IN ACCORDANCE WITH THE ESPOO CONVENTION

(a) EIA procedure and determination of the likely significant adverse transboundary impact (article 2(2), 2(5), Appendix I and Appendix III)

Being a large diameter oil and gas pipeline listed in Annex I, item 8 of the Espoo Convention, the Baltic Pipe project had to be assessed in accordance with the provisions of the convention. Since the project alternatives were localized in exclusive economic zones of Denmark, Poland, Sweden and Germany and the project was jointly proposed by these four states, they were both Parties of Origin as well as Affected Parties (at further stage due to obtained results of the environmental field surveys, alternative route through German EEZ was excluded from consideration).

(b) Notification of affected Parties (articles 2(4) and 3)

A voluntary start-up meeting was arranged with the Espoo authorities from all Concerned Parties (Poland, Sweden, Denmark and Germany) in Nov 2017. The meeting introduced the project and initiated the dialogue between the Espoo authorities. Documentation prepared for the voluntary start-up meeting later served as an input to formal notifications based on the article 3 of the Espoo Convention.

Later – during the scoping stage of the EIA process (see next item) all Concerned Parties officially notified each other in accordance with the article 3 of the Espoo Convention. Other Baltic Sea countries were informed through Danish Point of Contact about the project but none of these countries expressed interest to be involved in the transboundary EIA procedure.

In addition, the project was discussed during the HELCOM meeting on 5 March 2018 and an information about project was prepared for Parties of HELCOM to get acquainted with and to take note on the project¹.

Following the voluntary start-up meeting, the investor prepared in coordination with the Espoo Points of Contact from all Parties of Origin a joint scoping document. A single scoping document highlighted all potential impacts that may arise during the construction, operation and decommissioning of this project in both national and transboundary settings. Where such impacts could not be excluded, they were highlighted for specific consideration in the EIA study. Of a particular concern were especially:

- Impacts on fish and lamprey species (including commercially important species) living in the Bornholm Basin that can be caused by the physical disturbance of the seabed, suspended sediments, sedimentation and underwater noise during construction (trenching, pipe-lay, anchor handling and ship traffic) as well as unplanned events (munitions clearance).
- Impacts on protected species with special focus on species listed in Habitat Directive Annex IV (e.g. harbour porpoise) that require a strict protection regime across their entire natural range within the EU, both within and outside Natura 2000 sites.
- Impacts on climate and air quality due to air emissions during the construction of the pipeline's marine section (e.g. the combustion of fossil fuels by vessels used in the Baltic Sea to lay the pipeline) and at the operational stage (e.g. emissions are generated during the combustion of fossil fuels by research vessels and vessels carrying out maintenance work).

The scoping document was sent along with notification between the concerned parties the comments received from them have been taken into account in various documents that determined the scope of the EIA documentation in each Party of Origin based on their own applicable domestic legislation.

(c) EIA Documentation (articles 4, 2 (11) and appendix II)

¹ <https://portal.helcom.fi/meetings/HELCOM%2039-2018-504/MeetingDocuments/6-2%20Information%20on%20Baltic%20Pipe%20project.pdf>

Following the scoping process, the proponent assessed the project components located in the respective Parties of Origin and during this process considered both the impacts within the national jurisdictions as well as their specific transboundary effects on other Affected Parties as well as the cumulative impacts of the entire project. During the assessment process, all available information on the state of the Baltic Sea environment, including results of the HOLAS II project (HELCOM Second Holistic Assessment of the Ecosystem Health of the Baltic Sea), as well as requirements arising from applicable regulations concerning protection of the marine environment (including Marine Strategy Framework Directive², Framework Water Directive³, Habitats Directive⁴ and Birds Directive⁵), were taken into consideration.

At the end of this process, dedicated EIA reports were produced for each project component located in a specific country (i.e., a specific report was prepared in each Party of Origin). These EIA reports addressed impacts that may occur both within and outside the national jurisdictions taking into account the specificity of impacts, including cumulative impacts for each of the proposed alternatives of the project. In addition, as separate report was prepared to describe the potential transboundary aspects of the impacts – Espoo report. For illustration, see the table below with the main assessment conclusions of the Polish component of the project on the three Affected Parties.

Affected Party (AP)	Party of Origin (PoO) Poland
<p>Denmark The pipeline route crosses the boundary between the Polish and Danish exclusive economic zone.</p>	<p>Potential long-range project impacts include sediment dispersion and underwater noise. Modelling of sediment dispersion shows that significant transboundary impact is unlikely due to the limited duration and range. Significant transboundary impacts on marine mammal and fish populations caused by underwater noise from munitions clearance (detonation) can be avoided by applying mitigation measures.</p> <p>In the part of Danish waters that border Poland, no Natura 2000 sites were delineated. Considering the nature of the impacts generated as a result of the pipeline and the distance between pipeline in the area of Polish waters and the Danish Natura 2000 areas, the possibility of transboundary impacts on the Danish Natura 2000 sites is excluded.</p>
<p>Sweden The pipeline route crosses the boundary between the Danish and Polish exclusive economic zone.</p>	<p>Potential long-range project impacts include sediment dispersion and underwater noise. Due to the distance between project implementation site in Polish waters and the Swedish EEZ, a distance of 54 km at the closest point, there is no risk of transboundary impacts. None of the potential impacts is large enough, nor has the duration and intensity that could cause impacts on Swedish waters</p> <p>The pipeline route crosses the Swedish Natura 2000 site “Sydvästskånes utsjövatten”. It is concluded that no activities originating in Poland can have a significant transboundary impact on this site.</p>
<p>Germany The Baltic Pipe route does not cross German waters.</p>	<p>Potential long-range project impacts include sediment dispersion and underwater noise. Modelling of sediment dispersion shows that significant transboundary impact is unlikely due to the limited duration and range. Significant transboundary impacts on marine mammal and fish populations caused by underwater noise from munitions clearance (detonation) can be avoided by applying mitigation measures.</p>

The EIA reports also considered cumulative impacts that may be caused by the combination of all five key components of the Baltic Pipe project itself in with other development plans and projects in the Baltic Sea region. All these assessments concluded that long-term or permanent impacts will not be significant in any given country nor in the entire project area.

(d) Consultations with Affected Parties (article 5)

Transboundary consultations were conducted on the basis of EIA documentation via written information exchange with Denmark, Sweden and Germany.

² Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy

³ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy

⁴ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

⁵ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds

Matters discussed between Poland and the Affected Parties concerned among others: the impacts of the project on fishery, the risks associated with the seismic activity due to dredging, the impacts of underwater noise during construction phase, the impacts on cultural underwater environment, the impacts on spawning areas, maritime traffic and its safety, sediments resuspension, military areas.

For instance, due to the submitted comments on the fishery, the developer confirmed that in each country schedules for the construction works would be published in advance in order to provide relevant information to fishermen. The period for which the safety zones were supposed to be set as well as the period of physical disturbance generated by construction units was assured to be very short. Moreover, the planned mitigation measures were confirmed during the consultations.

(e) Public Participation (articles 2(6), 3(8), 4(2))

Public was involved two times: during notification (the scoping phase) and during consultation of the EIA documentation. All Concerned Parties allowed the public to provide comments during the same time.

In addition to these formal opportunities to submit comments, informational meetings with the public were held in each of the Parties. These information meetings were however formally held outside the scope of the Espoo Convention since the authorities of other Concerned Parties were not involved in these consultations.

(f) Final Decision on the proposed activity (article 6)

Each Party of Origin issued their own final decisions, which were translated and sent to other Affected Parties. EIA decision in Poland as Party of Origin was issued by the Regional Directorate on Environmental Protection in Szczecin on 25 November 2019, its findings and obligations are binding for the building permit. EIA decision specifies the environmental conditions for implementation of the investment and considered, among others, the results of transboundary procedure since - in accordance with the national legislation – the comments and requests submitted by the country participating in the transboundary environmental impact procedure are examined and considered when issuing such decision.

Three final decisions were issued in each country as Party of Origin: Poland, Denmark and Sweden. Shortly after the decision was issued in Sweden it was forwarded by the Espoo Point of Contact to the Affected Parties in original language - Swedish. Afterwards, relevant translations to the languages of the Affected Parties were provided. The same was applicable for the decisions issued in Denmark and Poland.

(g) Post-project analysis (article 7 and Appendix 7)

EIA decision for the Polish part of the project contained requirements to conduct among others environmental monitoring during building and exploitation stage. Such monitoring concerns amongst others, dispersion studies, marine mammals, marine habitats, invasive species, seabed. Based on the monitoring results, in case necessary additional mitigation and prevention measures should be implemented. The EIA decision stipulated that the final reports from the environmental monitoring should contain results of the analysis and comparison to the results and findings presented in the EIA documentation.

BENEFITS OR INTERESTING FEATURES

For similar projects, being implemented by more than two Parties, the provisions of the Espoo Convention can form the basis for a better understanding of national legal systems. Such projects require close cooperation between the relevant authorities of the Affected Parties and the Parties of Origin. Based on the stages of the EIA procedure in a transboundary context, the schedule of the investment process can be predicted.

The network of Points of Contact designated in each Party to the Espoo Convention facilitates cooperation in transboundary EIA procedures. It was proven by this project. Additional meetings of the Points of Contact were organized to discuss the transboundary procedure and legal requirements in each of the Parties involved. Due to the common understanding of the requirements, there were no misunderstanding between the Parties.

In particular, the preparation of a joint scoping document and Espoo report ensured that public and authorities of the Parties had access to the same documentation, therefore a consultation stage was efficient, and a decisive process was smooth. Moreover, even though the timeframes for public participation in each Party were different (for instance 30 days and 8 weeks), it was agreed that the public will have an opportunity to participate in the procedure within the longest timeframe regardless of the country.

USEFUL LINKS

A comprehensive information about the project and its transboundary EIA process can be obtained through a dedicated website: <https://www.baltic-pipe.eu>.